

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LARRY GENE HEGGEM,

Plaintiffs,

v.

STOEL RIVES LLP, *et al.*,

Defendants.

Case No. C14-1674-RSM-JPD

REPORT AND RECOMMENDATION

Plaintiff Larry Heggem is a State prisoner who is currently confined at the Monroe Corrections Center in Monroe, Washington. On October 29, 2014, plaintiff submitted to the Court for filing a civil rights complaint under 42 U.S.C. § 1983. (*See* Dkt. 1.) Plaintiff's complaint is somewhat difficult to understand, though he appears to assert therein that the attorneys appointed to represent him in a separate civil rights action, along with the attorneys representing the defendants in that action and two other individuals whose roles are unclear, colluded with each other to perpetrate a fraud and tamper with evidence in relation to that other action. (*See id.*)

REPORT AND RECOMMENDATION - 1

1 Plaintiff failed to submit with his complaint either the \$400 filing fee or an application
2 for leave to proceed with this action *in forma pauperis*. Accordingly, the Clerk sent plaintiff a
3 letter advising him that he would have to submit either the entire filing fee, or an application for
4 *in forma pauperis* status, on or before December 1, 2014, and that his failure to do so could
5 result in dismissal of this case. (Dkt. 2.) That letter was subsequently returned to the Court,
6 apparently because it did not contain a Washington Department of Corrections prisoner number
7 for plaintiff. (*See* Dkt. 4.)

8 On January 8, 2015, the Clerk sent plaintiff a second letter advising him of the filing fee
9 deficiency and explaining that he would have to correct that deficiency on or before February 9,
10 2015, or his case would be subject to dismissal. (Dkt. 5.) Shortly thereafter, on January 14, 2015,
11 the Court received a letter from plaintiff requesting an update on the status of his case and a copy
12 of the docket sheet was mailed to plaintiff the following day. (Dkt. 6.) The docket sheet clearly
13 indicated the outstanding filing fee deficiency, and the deadline by which the deficiency was to
14 be corrected, but plaintiff made effort to correct the deficiency by the established deadline.

15 A subsequent review of the record raised questions as to whether the second deficiency
16 letter had been mailed to plaintiff at the proper address. In an effort to ensure that plaintiff had
17 every reasonable opportunity to address the filing fee deficiency, the Clerk sent plaintiff a third
18 deficiency letter on March 19, 2015 advising him that he would have to submit either the entire
19 filing fee, or an application for *in forma pauperis* status, on or before April 20, 2015 or his case
20 would be subject to dismissal. (Dkt. 7.) The Clerk sent with that letter a copy of the appropriate
21 *in forma pauperis* application form for plaintiff to complete. (*See id.*)

22 On March 30, 2015, plaintiff filed a motion seeking to withdraw his complaint as to some
23 of the defendants. (*See* Dkt. 8.) However, to date, he has made no effort to address the filing fee

1 deficiency. Because plaintiff has had ample opportunity to correct the filing fee deficiency but
2 has failed to do so, this Court recommends that the instant action be dismissed without prejudice
3 for failure to prosecute. A proposed order accompanies this Report and Recommendation.

4 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
5 served upon all parties to this suit by no later than **June 4, 2015**. Failure to file objections within
6 the specified time may affect your right to appeal. Objections should be noted for consideration
7 on the District Judge's motion calendar for the third Friday after they are filed. Responses to
8 objections may be filed within **fourteen (14)** days after service of objections. If no timely
9 objections are filed, the matter will be ready for consideration by the District Judge on **June 5,**
10 **2015.**

11 This Report and Recommendation is not an appealable order. Thus, a notice of appeal
12 seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the
13 assigned District Judge acts on this Report and Recommendation.

14 DATED this 14th day of May, 2015.

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JAMES P. DONOHUE
Chief United States Magistrate Judge